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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fourth session

SUMMARY RECORD OF THE 1330th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 18 March 1999, at 10 a.m.

Chairman: Mr. ABOUL-NASR

later: Mr. YUTZIS

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The meeting was called to order at 10.20 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Invitation of members of the Committee to visit States parties

1. The CHAIRMAN asked whether, as a matter of principle, the Committee ought to accept invitations addressed to it by States parties. He personally thought that that was a good opportunity to make the Committee known and to see it in action outside sessions. Such missions were of interest to the work of the Committee in that the experts who took part in them might form their own opinion of the situation in the country concerned and acquire first-hand information. It was important for members who went on mission to represent different cultures and ways of thinking.

2. Mr. DIACONU thought that that was a good idea, but regardless of the organization or body which invited the Committee, it must be certain that the Government of the State party approved the visit.

3. The CHAIRMAN agreed that the approval of the authorities in the State party was needed. Each invitation would be considered in detail, and members would decide whether or not to visit the country concerned and who would go. He took it that members agreed to accept invitations in principle and that they could then decide whether to go based on the merits of each case.

4. It was so decided.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations concerning the tenth and eleventh periodic reports of Italy (CERD/C/54/Misc.32/Rev.2; document distributed at the meeting, in English only)

5. The CHAIRMAN invited the members of the Committee to consider the draft concluding observations concerning the tenth and eleventh periodic reports of Italy.

Paragraphs 1-9

6. Paragraphs 1-9 were adopted.

Paragraphs 10 and 11

7. Following an exchange of views in which Mr. DIACONU, Mr. SHERIFIS and the CHAIRMAN took part, the members agreed to delete those paragraphs, since the subjects which they addressed were covered in paragraphs 18 and 19, in the part containing the Committee's recommendations.

8. It was so decided.

Paragraph 12

9. Paragraph 12 was adopted with minor drafting changes.

Paragraph 13

10. Following an exchange of views in which the CHAIRMAN, Mr. YUTZIS, Mr. NOBEL, Mr. GARVALOV, Mr. SHERIFIS and Mr. de GOUTTES took part, the CHAIRMAN said he took it that the members wished to delete paragraph 13 and that Mr. Nobel, assisted by other members of the Committee, would be entrusted with producing a statement on that very important matter, to be addressed to all member States of the European Union, which would have the weight of a general recommendation of the Committee and would be considered at its next session.

11. It was so decided.

Paragraph 14

12. Paragraph 14 was adopted with minor drafting changes.

Paragraph 15

13. Paragraph 15 was adopted.

Paragraph 16

14. Mr. SHERIFIS suggested that the Committee should specify that there had been incidents of discrimination in Italy against certain foreigners and Roma, and not against foreigners and Roma. Otherwise, it might be thought that all foreigners were the subject of discrimination in Italy, which was obviously not the case.

15. Paragraph 16, as amended, was adopted.

Paragraph 17

16. The CHAIRMAN asked why reference was made in paragraph 16 to Roma living in Italy. That suggested that all Roma were foreigners.

17. Mr. DIACONU said that there were Italian Roma, but also Roma who did not have Italian nationality and who were living in Italy. The words used were meant to encompass both categories of persons.

18. For the sake of clarity, the CHAIRMAN suggested deleting the word "living" in the phrase "the situation of Roma living in Italy".

19. It was so decided.

20. Paragraph 17, as amended, was adopted.

Paragraphs 18-22

21. Paragraphs 18-22 were adopted.

Paragraph 23

22. Mr. SHERIFIS proposed asking the delegation to address the Committee's suggestions and recommendations in its next report rather than points raised during the consideration of its tenth and eleventh periodic reports.

23. It was so decided.

24. Paragraph 23, as amended, was adopted.

25. The draft concluding observations concerning the tenth and eleventh periodic reports of Italy as a whole, as orally amended, were adopted.

Draft concluding observations concerning the twelfth and thirteenth periodic reports of Peru (CERD/C/54/Misc.37/Rev.2; document distributed at the meeting, in French only)

Paragraph 1

26. Paragraph 1 was adopted.

Paragraph 2

27. The CHAIRMAN suggested shortening the paragraph by inserting the last two sentences in the section on the principal subjects of concern. He noted that it was not usually appropriate to express regret in an introductory paragraph.

28. Mr. van BOVEN stressed that the last sentence in paragraph 2, which stated that the Committee also regretted that there had not been sufficient contacts and exchanges of views between the authorities and non-governmental organizations active in combating racial and ethnic discrimination also appeared later in the draft and could thus be deleted. On the other hand, the previous sentence, in which the Committee regretted that the report was only a partial response to the observations and recommendations made during consideration of the previous report in 1995, should be retained.

29. The CHAIRMAN said that there was no question of deleting the last two sentences in paragraph 2, but simply of transferring them to another section of the draft concluding observations.

30. Mr. YUTZIS suggested inserting the penultimate sentence after paragraph 21.

31. Mr. de GOUTTES said that that sentence might be inserted at the beginning of paragraph 10.

32. The CHAIRMAN suggested deleting the sentence and deciding later where best to insert it.

33. It was so decided.

34. Paragraph 2, as amended, was adopted.

Paragraphs 3-8

35. Paragraphs 3-8 were adopted.

Paragraph 9

36. The CHAIRMAN suggested the sentence should be amended to state that the Committee noted with satisfaction the optional declaration made by Peru under article 14 of the Convention. That would avoid the use of the phrase "It is noted with satisfaction" at the beginning of the sentence.

37. It was so decided.

38. Paragraph 9, as amended, was adopted.

Paragraph 10

39. Mr. de GOUTTES suggested the insertion at the start of the paragraph of the previous penultimate sentence of paragraph 2, to the effect that the Committee nevertheless regretted that the report responded to only some of the comments and recommendations made during consideration of the previous report in 1995.

40. The CHAIRMAN asked Mr. de Gouttes to clarify the source of information reporting changes introduced by the 1993 Constitution with respect to international treaties.

41. Mr. de GOUTTES explained that the information was contained in the two alternative reports submitted by human rights NGOs to which extensive reference had been made during discussion of Peru's report. He proposed that the first part of the sentence should be amended to make it clear that the information was from non-governmental sources.

42. The CHAIRMAN rejected that proposal, which he considered to be contrary to the Convention.

43. Mr. DIACONU recalled that in many States parties the Convention had the same legal status as domestic law, so in that respect Peru was no exception. It would be better for the Committee to concern itself with the implementation of the Convention in Peru and to set aside

the question of its status with regard to domestic legislation. It was certainly not the domestic status of the Convention which explained the State party's failure to implement it. The paragraph should therefore be deleted.

44. The CHAIRMAN said that, as he understood it, the purpose of the paragraph was to pinpoint a change that had taken place in the country's constitutional order, while indicating that in future the Convention would have a lesser status than in the past.

45. Mr. de GOUTTES explained that a change had in fact taken place in the country's constitutional order. It would be a pity not to mention the problem, given that it had been discussed at some length during the dialogue with the Peruvian delegation. The sentence could however be simplified by indicating that the Committee was concerned about changes in the domestic legal order with respect to international treaties, including the Convention, introduced by the 1993 Constitution. The following sentence would be deleted. That solution had the advantage of raising the issue without entering into too much detail.

46. The CHAIRMAN suggested the deletion of the words "informations faisant état" (information reporting) so that the first sentence would simply refer to the Committee's concern about the changes introduced by the 1993 Constitution.

47. Mr. DIACONU recalled that the Peruvian delegation had not been in agreement with the Committee on that matter. The Committee could only express concern about a change in the status of the Convention if there was a real risk that the change might hinder its implementation. That should be the Committee's concern and not the change in status per se. He therefore proposed that the paragraph should be amended to the effect that the Committee was disturbed by the possibility that the changes in the domestic legal order with respect to the status of international treaties, including the Convention, introduced by the 1993 Constitution were likely to hinder the implementation of the Convention by the State party.

48. The CHAIRMAN suggested that the statement should be qualified by saying that the changes might set back the implementation of the Convention.

49. Mr. DIACONU endorsed that proposal provided it was stated that the changes might affect the implementation of the Convention by the State party.

50. It was so decided.

51. Paragraph 10, as amended, was adopted.

Paragraph 11

52. Mr. de GOUTTES proposed deleting the paragraph, which was redundant in the light of paragraph 28, subparagraph (a).

53. Paragraph 11 was deleted.

Paragraphs 12 and 13

54. Paragraphs 12 and 13 were adopted.

Paragraph 14

55. Mr. VALENCIA RODRIGUEZ proposed the deletion of the second sentence.

56. Paragraph 14, as amended, was adopted.

Paragraph 15

57. Mr. de GOUTTES proposed that the last phrase should indicate that the burden of proof of discrimination appeared to be entirely on the complainant.

58. Paragraph 15, as amended, was adopted.

Paragraph 16

59. Mr. VALENCIA RODRIGUEZ said that there was no reason to specify the source of information that had prompted the Committee's concern. He therefore proposed the deletion of the reference to non-governmental organizations.

60. Paragraph 16, as amended, was adopted.

Paragraph 17

61. Mr. DIACONU proposed the deletion in the second sentence of the words "et paysannes" (and peasant), which referred to a socio-professional category and not an ethnic, racial or minority group or other category protected by the provisions of the Convention.

62. Paragraph 17, as amended, was adopted.

Paragraph 18

63. Mr. de GOUTTES said that it was not necessary to mention the Committee's source of information in that paragraph either and therefore proposed the deletion of the reference to non-governmental sources.

64. The CHAIRMAN suggested the deletion of the introductory phrase referring to political rights.

65. Paragraph 18, as amended, was adopted.

Paragraph 19

66. Mr. de GOUTTES proposed deleting the introductory phrase, referring to the field of health. Furthermore, bearing in mind the Chairman's legitimate concern about the gravity of the acts apparently attributed to the State party in the proposed text, he suggested that the reference to certain cases of forced sterilization should be replaced by a reference to allegations concerning forced sterilization.

67. Paragraph 19, as amended, was adopted.

Paragraph 20

68. Mr. de GOUTTES proposed that the reference to racist criteria in the third line should be replaced by the words "racial criteria".

69. Paragraph 20, as amended, was adopted.

70. Mr. Yutzis took the Chair.

Paragraphs 21-23

71. Paragraphs 21-23 were adopted.

72. Mr. DIACONU said that it would be more logical to present the paragraphs containing suggestions or recommendations relating to substantive matters before those which addressed practical questions. He therefore proposed continuing after paragraph 23 with paragraphs 27, 25, 26 and 24, respectively.

73. It was so decided.

Paragraph 27

74. Mr. de GOUTTES proposed replacing the last three words of the paragraph by a reference to all the rights guaranteed by article 5 of the Convention.

75. Paragraph 27, as amended, was adopted.

Paragraphs 25 and 26

76. Paragraphs 25 and 26 were adopted.

Paragraphs 28 and 29

77. Paragraphs 28 and 29 were adopted.

Paragraph 30

78. Mr. van BOVEN proposed that the reference to "all the points raised" should be replaced by "in particular the recommendations and suggestions made".

79. Paragraph 30, as amended, was adopted.

80. The draft concluding observations concerning the twelfth and thirteenth periodic reports of Peru as a whole, as orally amended, were adopted.

81. Mr. Aboul-Nasr resumed the Chair.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION, WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 9)

82. The CHAIRMAN invited Mr. Garvalov, as a member of the contact group assigned the task of gathering information on the preparations for the World Conference against Racism, to report on the steps taken by the group since the previous session of the Committee.

83. Mr. GARVALOV recalled that the three members of the contact group were Ms. McDougall, Mr. Yutzis and himself. While the preparatory work itself was not due to begin until the following year, which left the Committee some time to draw up new proposals, the Commission on Human Rights, whose next session began on Monday, 22 March, would set up an open-ended sessional working group on the subject in which the members of the contact group intended to take part.

84. The three members of the contact group had also had the opportunity since the beginning of the Committee's session once again to meet the Deputy High Commissioner for Human Rights to discuss the participation of the Committee in the future Conference. He had acknowledged that the Committee would have a central role to play in the preparation process as well as in the Conference itself, as emphasized by the Commission on Human Rights itself in its resolution 1998/26 and by the General Assembly in its resolution 53/132.

85. The members of the contact group had informed the Deputy High Commissioner that the Committee members had already begun reflecting upon the content of the future Conference and that studies on various themes had been undertaken individually by Mrs. Sadiq Ali, Mr. Banton, Mr. van Boven, Mr. Diaconu and Mr. de Gouttes, and jointly by Mr. Diaconu and Mr. Rechetov, on the one hand, and Mr. Shahi, Mr. Valencia Rodriguez and himself on the other. The Deputy High Commissioner had already planned to include in the list of studies submitted to the Preparatory Committee the working paper drawn up jointly by the Committee and the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1998. The recent study carried out by Ms. McDougall on discrimination against women, entitled "Commentary and background information on proposed general recommendation on gender dimensions of racial discrimination" and distributed under symbol CERD/C/54/Misc.31 could also be included among the documents submitted by the Committee.

86. The contact group, as its work progressed, also intended to inform the Commission's sessional working group of any suggestions made by members of the Committee concerning not only the themes of the future Conference but also the final document (final declaration and programme of action).

87. He added that, although members of the contact group had tried to meet the Ambassadress of Senegal, who would be the chairperson of the Commission's sessional working group, in order to discuss the Committee's role, it had not yet been possible to arrange a meeting.

88. He personally had been invited to take the floor on Friday, 19 March, during an open discussion organized by the High Commissioner for Human Rights on arrangements for the celebration of the International Day for the Elimination of Racial Discrimination on 21 March.

89. The CHAIRMAN said he would appreciate further information about the nature of Ms. McDougall's study that the contact group intended to submit as the Committee's contribution. Was it a study on equality between men and women? If so, he wondered what connection there was between that subject and racial discrimination.

90. Mr. GARVALOV said he had been given to understand, in the course of the official conversations he had had during the past few months, that discrimination against women would be one of the subjects tackled at the Conference.

91. The CHAIRMAN asked whether that subject would be included in the agenda of the Conference. He also asked what exactly was meant by the English word "gender".

92. Mr. GARVALOV said it was not yet known whether the question of discrimination against women would be an item on the agenda. As for the meaning of the word "gender", he preferred to yield the floor to Ms. McDougall.

93. Ms. McDOUGALL said that she had tried, in her study, to reveal the link that existed between racial discrimination and discrimination against women - in short, sexist prejudices - in the light of articles 2 and 5 of the Convention. Moreover, she wished to inform the Chairman of the Committee that her study would carry neither more nor less weight than those prepared individually by other members, and recalled that members of the contact group were not official representatives of the Committee.

94. Mr. DIACONU suggested that Ms. McDougall might meet the concerns expressed by the Chairman by possibly modifying her study and focussing it more on the central theme of the Conference.

95. He had just received an informal document submitted by the African Group as a contribution to the deliberations of the sessional working group of the Commission on Human Rights to review and formulate proposals for the World Conference against Racism. That document contained several references to the work of the Committee on the Elimination of Racial Discrimination (CERD). Specifically, it proposed that all the recommendations formulated by CERD should be examined with a view to ensuring full implementation of the Convention and in particular articles 4, 7, 9 and 14. It also suggested that ways should be

examined of strengthening coordination between the activities of CERD and those of the various bodies of the United Nations system dealing with discrimination and other bodies concerned with that question within the specialized agencies, and in particular ILO and UNESCO. The African Group also proposed that the possibility of authorizing CERD to establish a system of visits to States parties to the Convention should be studied, one of the purposes being to enable it to determine how States were complying with the provisions of article 7 of the Convention. In general, the African Group recommended that the resources of CERD should be strengthened and expressed the hope that a plan of action would be drawn up for that purpose. That document, if acted upon, would assign an extremely important role to CERD, thereby indicating that the time had come for the Committee to decide how it would participate in the Sessional Working Group.

96. The CHAIRMAN endorsed Mr. Diaconu's suggestion since the only proposals made so far were those put forward by members speaking in their personal capacity. He suggested that the Committee should establish contact and cooperate with the African Group.

97. Mr. van BOVEN said he was pleased to learn of the proposals made by the African Group. He supported the suggestion made by Mr. Diaconu that Ms. McDougall be asked to focus her study more directly on the central theme of the Conference; finally, he recalled that the General Assembly, in its resolution 53/132, had specifically requested the Committee on the Elimination of Racial Discrimination "... to participate actively both in the preparatory process of the World Conference, including by assisting the Preparatory Committee ... by ... undertaking reviews and studies and submitting recommendations concerning the Conference and the preparations therefor, through the Secretary-General, to the Preparatory Committee, and in the Conference itself".

98. Mr. de GOUTTES thanked Mr. Garvalov for bringing the Committee up to date on the activities of the Contact Group. He wondered whether any draft declaration or recommendations had been prepared for the upcoming conference. If so, the members of the Committee would of course wish to have copies. It would also be helpful if the secretariat could provide any texts or documents which might be prepared by the Sessional Working Group of the Commission on Human Rights which would be meeting the following week.

99. He also thanked Mr. Diaconu for the information concerning the informal document prepared by the African Group.

100. Mr. SHAHI said he had also listened to Mr. Garvalov's explications with great interest. That information would help the Committee make new suggestions concerning the agenda for the Conference.

101. With regard to the joint document submitted by Mr. Valencia Rodriguez, Mr. Garvalov and himself on the creation of a rapid-reaction force which would allow the United Nations to act rapidly in cases of massive violations of human rights, Mr. Banton had drawn attention to the suggestion made by the 1981 Nobel Prize-winner for economics, who had suggested that the United Nations essential programmes should be financed by levying a tax on international financial transactions. That suggestion, which Mr. Banton intended to develop in a paper, was a most interesting one.

102. The CHAIRMAN expressed the opinion that the Committee was not empowered to make proposals of that type. That idea, no matter how attractive, was quite utopian.

103. Mr. SHAHI pointed out that that suggestion would be submitted by Mr. Banton as a personal initiative, not on behalf of the Committee. Other international organizations such as the World Health Organization (WHO) had in fact already expressed interest in such a financing system.

104. Mr. YUTZIS said that the document referred to by Mr. Diaconu showed that things were in fact beginning to change and that the time had come for the Committee to decide on the form its participation in the upcoming Conference would take. In its decision 9 (53) of August 1998, the Committee had already made various proposals concerning subjects which could be included on the agenda for that Conference, while stressing that those ideas needed "further elaboration". The issue of gender-based discrimination had been mentioned.

105. Mr. RECHETOV said that to the extent that the study submitted by Ms. McDougall dealt with particular problems relating to discrimination against women which were directly related to the Convention or to certain crisis situations which the Committee had dealt with - for example, situations of armed conflict - he did not see why it should not receive the Committee's support.

106. The CHAIRMAN invited Mr. Garvalov to wind up the discussion and requested him to report to the Committee at its next session on his participation in the Sessional Working Group of the Commission on Human Rights. A special meeting might be devoted to that topic.

107. Mr. GARVALOV said that he was aware of the informal document submitted by the African Group but he was waiting to first discuss it with the Ambassadress of Senegal before reporting to the Committee. The Contact Group would take every opportunity to stress, even informally, the role that the Committee on the Elimination of Racial Discrimination must play in the work of the upcoming World Conference against Racism.

The meeting rose at 1.05 p.m.